IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

JOHN D. TAYLOR and	§	
STEVE K. TAYLOR,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. 7:06-CV-0123-R
	§	ECF
	§	
MASTERCARD INTERNATIONAL	§	
INCORPORATED, et al.,	§	
	§	
Defendants.	§	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to the District Court's Order of Referral (doc. 56), this case has been referred to this Court pursuant to 28 U.S.C. § 636(b)(1). Before this Court are the defendants' motions to dismiss (docs. 7, 9, 11, 38, 39, 46, 48, 53, 61, 67, 102). As discussed in the defendants' briefs in support of their motions to dismiss, plaintiffs have previously brought the same copyright infringement claims in an action before the District Court in 2001. *See Taylor v. I.B.M.*, 7:01-CV-0216-R (N.D. Tex. Feb. 19, 2002) (Buchmeyer, J). The District Court dismissed the case with prejudice with respect to all the defendants in that case. *Id.* (February 19, 2002 Order). The plaintiffs subsequently appealed, and the Fifth Circuit affirmed the District Court's decision stating that the plaintiffs "failed to plead an actionable claim." *Taylor v. I.B.M.*, 54 Fed. Appx. 794, 794 (5th Cir. 2002) (unpublished decision). The Fifth Circuit also sanctioned the plaintiffs stating that "[i]n light of the time and money expended by appellees in defending this wholly frivolous lawsuit, appellants are hereby ordered to pay to this court the sum of \$500." *Id.* (citing *Farguson v. Mbank Houston, N.A.*, 808 F.2d 358, 360 (5th Cir. 1986); *Prather v. Neva Paperbacks, Inc.*, 410 F.2d 698, 700 (5th Cir.

1969)). Therefore, for the reasons stated in the defendants' briefs, this Court recommends that the District Court **GRANT** the defendants' motions to dismiss (docs. 7, 9, 11, 38, 39, 46, 48, 53, 61, 67, 102) and **DISMISS** Plaintiffs' complaint with prejudice as to all the defendants.

SO RECOMMENDED. October 5, 2006.

PAUL D. STICKNEY

UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must serve and file written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these proposed findings, conclusions, and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).